National Insurance Co. Ltd.
Vs.
Himmat Singh & ors.

S. B. Civil Misc. Appeal No.1023/2004

28.07.2004

Hon'ble Mr. Prakash Tatia,J.

Mr. Jagdish Vyas, for the appellant.
Mr. Rajesh Panwar, for the respondent Caveator.

The appellant National Insurance Co. Ltd. Has challenged the award dated 27.9.2003 by which the Motor Accidents Claims Tribunal-I, Jodhpur allowed the claim petition of the respondent Himmat Singh and awarded compensation of Rs.72,000/-. The Tribunal also held that the appellant Insurance Co. is not liable to reimburse the amount but directed the Insurance Co. to pay the amount to the claimants with liberty to recover the said amount from the owner.

The grievance of the appellant Insurance Co. is that when appellant Insurance Co. was held not liable then the Tribunal should not have directed the appellant Insurance Co. to pay the amount.

Learned counsel for the appellant frankly pointed out that after filing of this appeal, the Hon'ble Apex Court delivered the judgment in the case of National Insurance Co. Ltd. Vs. Swaran Singh & ors., reported in AIR 2004 SC 1531 and Oriental Insurance Co. Ltd. Vs. Nanjappan & ors., reported in

AIR 2004 SC 1630 and in light of these two judgments, even if direction of Tribunal regarding payment of the compensation by the appellant Insurance Co. is maintained, still the interest of the appellant Insurance Co. may be protected by directing the Tribunal to follow the procedure as given in the judgment of Nanjappan's case (supra).

Since the Tribunal already protected the interest of the appellant Insurance Co. and gave permission to recover the said amount of compensation from the owner of the vehicle, therefore, I do not find any merit in the appeal. But, at the same time, the appellant is permitted to deposit the entire compensation amount in the Tribunal and may move appropriate application before the Tribunal so that appropriate orders may be passed by the Tribunal as executing court in light of the decision given by the Hon'ble Apex Court in Nanjappan's case (supra).

With this direction, the appeal of the appellant is disposed of.

[**Prakash Tatia**],**J.**

/skm/